



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

JACOB ROSENSTEIN MD
800 WEST ARBROOK BLVD SUITE 150
ARLINGTON TX 76015

Respondent Name

COMMERCE & INDUSTRY INSURANCE

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-08-1275-01

MFDR Date Received

OCTOBER 25, 2007

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Code 20938 for \$229.51 for the right iliac osteotomy was denied stating 'procedure not paid separately.' This is incorrect as this code was billed correctly according to the fee guidelines and should be reimbursed separately... **The MAR for this code is \$229.51 and is still due**". "Code 22830-51 for \$952.24 for the exploration of lumbar fusion was denied stating, 'global.' This is not correct as this code is not global according to the National Correct Coding Manual Version 13.0. **The MAR for this code is \$952.24 and since it was billed with a -51 modifier \$476.12 is still due.**" "Code 63042 for \$2,294.22 for the L4-5 re-exploration of the lumbar laminectomy was denied stating, 'global.' This is not correct as this code is not global according to the National Correct Coding Manual Version 13.0. **The MAR for this code is \$2,294.22 and it was billed with a -50 modifier to indicate a bilateral procedure. \$2,294.22 is still due.**"

Requestor's Supplemental Position Summary Dated December 9, 2008: "Will you please withdraw all the DOP codes for example 20936, 27299, 63048, and 90779 on all pending active disputes we have with your office."

Requestor's Supplemental Position Summary Dated December 15, 2008: "yes 63044 is a DOP code and we don't wish to pursue this one either. I forgot to include this in my email to you so if you need me to email another statement w/this added in I will. So if any dispute includes 63044, I need to withdraw this code 63044".

Amount in Dispute: \$2,999.85

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated November 13, 2007: "Payments were reduced and/or denied because of improper unbundling by the provider, reduction to state fee schedules, or because of the provider's specialty."

Response Submitted by: Flahive Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 23, 2007	CPT Code 20938	\$229.51	\$229.51
	CPT Code 22830-51	\$476.12	\$00.00
	CPT Code 63042-50	\$2,294.22	\$2,294.20
TOTAL		\$2,999.85	\$2,523.71

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.202, effective August 1, 2003, sets the reimbursement guidelines for the disputed services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated September 27, 2007

- 172-Payment is adjusted when performed/billed by a provider of this specialty.
- B15-Payment adjusted because this procedure/service is not paid separately.
- 97-Payment is included in the allowance for another service/procedure.
- 42-Charges exceed our fee schedule or maximum allowable amount.

Explanation of benefits dated October 12, 2007

- Paid according to state fee schedule guidelines.

Issues

1. Is the requestor entitled to reimbursement for CPT code 20938?
2. Is the requestor entitled to reimbursement for CPT code 22830-51?
3. Is the requestor entitled to reimbursement for CPT code 63042-50?

Findings

1. 28 Texas Administrative Code §134.202(b) states "For coding, billing, reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section."

On the disputed date of service the requestor billed codes 63042-50, 63044-50, 22612-51, 22630-51, 20936, 27299-51, 22842, 22830-51, 22851, 22614, 38230-51, 20938, and 77002-26 .

CPT code 20938 is defined as "Autograft for spine surgery only (includes harvesting the graft); structural, bicortical or tricortical (through separate skin or fascial incision) (List separately in addition to code for primary procedure)."

The respondent denied reimbursement for CPT code 20938 utilizing reason code "42 and 172".

The requestor states in the position summary that "Code 20938 for \$229.51 for the right iliac osteotomy was denied stating 'procedure not paid separately.' This is incorrect as this code was billed correctly according to the fee guidelines and should be reimbursed separately... **The MAR for this code is \$229.51 and is still due.**

Per Rule 134.202(b), the maximum allowable reimbursement, (MAR) is determined by locality. A review of

Box 32 on CMS-1500 indicates that the zip code 76017 is the locality. This zip code is located in Tarrant County.

28 Texas Administrative Code §134.202(c)(1) states “To determine the maximum allowable reimbursements (MARs) for professional services system participants shall apply the Medicare payment policies with the following minimal modifications: “for service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Surgery, Radiology, and Pathology the conversion factor to be used for determining reimbursement in the Texas workers’ compensation system is the effective conversion factor adopted by CMS multiplied by 125%.”

The Medicare allowable for CPT code 20938 in Tarrant County is \$183.61. Per 28 Texas Administrative Code §134.202(c)(1) this amount is multiplied by 125% equals a MAR of \$229.51. This code is not subject to multiple procedure rule discounting; therefore, the MAR is \$229.51. The difference between the MAR and amount paid is \$229.51. As a result, the amount ordered is \$229.51.

2. CPT code 22830-51 is defined as “Exploration of spinal fusion.”

According to the explanation of benefits, CPT code 22830-51 was denied payment based upon reason code “97, 42 and 172”.

The requestor states in the position summary that “Code 22830-51 for \$952.24 for the exploration of lumbar fusion was denied stating, ‘global.’ This is not correct as this code is not global according to the National Correct Coding Manual Version 13.0. **The MAR for this code is \$952.24 and since it was billed with a -51 modifier \$476.12 is still due.**”

Per CCI Edits, CPT code 22830 is a component of CPT code 22612. The Edits allow for a modifier to be used to differentiate the services. The requestor added modifier -51 “multiple procedure” to CPT code 22830. This modifier does not differentiate the service from CPT Code 22612. As a result, reimbursement cannot be recommended.

3. CPT code 63042 is defined as “Laminotomy (hemilaminectomy), with decompression of nerve root(s), including partial facetectomy, foraminotomy and/or excision of herniated intervertebral disc, reexploration, single interspace; lumbar.”

According to the explanation of benefits the respondent reduced payment for CPT code 22842 based upon reason codes “97 and 172”.

The requestor states in the position summary that “Code 63042 for \$2,294.22 for the L4-5 re-exploration of the lumbar laminectomy was denied stating, ‘global.’ This is not correct as this code is not global according to the National Correct Coding Manual Version 13.0. **The MAR for this code is \$2,294.22 and it was billed with a -50 modifier to indicate a bilateral procedure. \$2,294.22 is still due.**”

Per CCI Edits, CPT code 63042 is not global to any other service billed on this date; therefore, the respondent’s denial based upon unbundling is not supported.

The requestor used modifier -50 “bilateral procedure” to CPT code 63042. The code description supports that this code is unilateral by definition; therefore, if performed on both sides of the spine (bilaterally), the requestor must append modifier -50. A review of the operative report supports a bilateral procedure.

The Medicare allowable for CPT code 63042 in Tarrant County is \$1,223.58. Per 28 Texas Administrative Code §134.202(c)(1) this amount is multiplied by 125% equals a MAR of \$1,529.47. This code is not subject to multiple procedure rule discounting. Because the procedure was performed bilaterally, the MAR is multiplied by 150% = \$2,294.20. The difference between the MAR and amount paid is \$2,294.20. As a result, the amount ordered is \$2,294.20.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$ 2,523.71.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$2,523.71 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	1/17/2013 _____ Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.